BELL COMMMUNITY REDEVELOPMENT AGENCY

Review Report

SELECTED TRANSACTIONS

July 1, 2000, through June 30, 2010

JOHN CHIANG
California State Controller

October 2010

JOHN CHIANG
California State Controller

October 20, 2010

Pedro Carrillo
Interim City Administrator
City of Bell
6330 Pine Avenue
Bell, CA 90201

Dear Mr. Carrillo:

Enclosed is the report of the State Controller's Office review of selected transactions of the Bell Community Redevelopment Agency for the period July 1, 2000 through June 30, 2010 (ten fiscal years). The review was conducted at your request for an assessment of the adequacy of the city's control to safeguard public assets and to ensure proper use of public funds. On September 22, 2010, we released an audit report containing findings and conclusions concerning the city's administrative and internal accounting control system. In that report, we stated that we would release a separate report of the City of Bell's redevelopment agency. This report presents our findings and conclusions of the Bell Community Redevelopment Agency review.

We concluded that the redevelopment agency failed to comply with Health and Safety Code requirements in numerous areas. Similar to the pattern identified in the internal control audit, we found apparent misuse of redevelopment funds for personal gain by the former Chief Administrator and other senior officials. There is no evidence to suggest that the redevelopment agency governing board, comprised entirely of the members of the Bell City Council, engaged in any meaningful oversight of the Redevelopment Agency activities. Specifically, our review has identified the following concerns:

- The redevelopment agency used $244,850 in tax increment of its Low and Moderate Income Housing Fund to fund administrative costs without an annual determination by the redevelopment agency governing board as required by Health and Safety Code section 33334.3(d). Of this amount, $66,100 (27%) and $24,856 (10.15%), respectively, were used to fund a portion of the former CAO and the Director of Administrative Services' (DAS) compensation. There is no evidence that the former CAO and the DAS engaged in activities specifically related to the Low and Moderate Income Housing Fund.

- The redevelopment agency used another $242,268 in the redevelopment agency's Capital Project Fund to fund a portion of the former CAO, former Assistant Chief Administrative Officer (ACAO), and DAS's salaries. The charges appeared to be arbitrary and there is no evidence that these officials engaged in activities that benefit the Capital Project Fund.

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- For a two-year period as members of the redevelopment agency governing board, each member of the Bell City Council received $55.38 for every two-week pay period. After that, they received $27.69 for every two-week pay period. The majority of the meetings—conducted as a part of Bell City Council meetings—lasted three minutes or less, and in some months not at all.

- The redevelopment agency used its Low and Moderate Income Housing Fund for other questionable charges. Examples include automotive charges, uniform allowance, and table refinishing expenses.

- The redevelopment agency governing board did not adopt an annual budget in each of the ten-year period of this review. Health and Safety Code section 33606 requires every redevelopment agency to adopt an annual budget. All budgets were adopted by the Bell City Council while convened as the Bell City Council rather than as the redevelopment agency governing board. Similarly, because of the commingling of Bell City Council and Bell Community Redevelopment Agency governing board meetings, the redevelopment agency meeting minutes and expenses were not approved by its governing board. Instead, they were approved by council members acting in the capacity of the Bell City Council.

- Redevelopment agency staff members stated that they were unaware of Health and Safety Code section 33080.1, which requires every redevelopment agency to submit an annual report to its governing board detailing its activities and the status of its projects. They could not produce such a report during any of the ten-year review period.

- The 20% set aside deposit for the Low and Moderate Income Housing Fund were not deposited directly into that fund as required by the Health and Safety Code section 33334.2(a). This resulted in a loss of interest earnings by that fund.

- The redevelopment agency overstated the amount of outstanding debt on its statement of indebtedness, which may in turn overstate the amount of tax increment it is eligible to receive.

- The adoption of the redevelopment agency's last five-year implementation plan is nearly a year late.

The above findings were discussed with the City of Bell management during a review exit conference on September 30, 2010.

If you have any questions, please contact Jeffrey V. Brownfield, Chief, Division of Audits, at (916) 324-1696.

Sincerely,

Original signed by

JOHN CHIANG
California State Controller

cc: The Honorable Edmund G. Brown, California Attorney General
The Honorable Steve Cooley, Los Angeles County District Attorney
André Birotte Jr., U.S. Attorney, Central District of California
Lourdes Garcia, Director of Administrative Services
City of Bell

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Review Report

Introduction

The State Controller's Office (SCO) reviewed selected transactions of the Bell Community Redevelopment Agency for the period July 1, 2000, through June 30, 2010 (10 fiscal years). The basis for the review was the independent audit reports issued for fiscal years starting July 1, 2000, and ending June 30, 2009. We extended our review to include selected transactions for Fiscal Year (FY) 2009-10.

On July 28, 2010, the newly appointed interim Chief Administrative Officer (CAO) of the City of Bell requested the State Controller perform an audit of the city to address numerous disclosures made in the news media suggesting possible misuse of public funds by senior management staff. In response, the State Controller agreed to perform an audit of the city's system of internal controls, property and business license tax revenues, and state and federal funding.

On September 22, 2010, the SCO released its audit report containing findings and conclusions reached concerning the city's administrative and internal accounting controls system.

The audit report also stated that the SCO would release a separate report on the City of Bell's redevelopment agency. This report presents our findings and conclusions reached in the SCO review of the Bell Community Redevelopment Agency.

Background

The City of Bell is located in Los Angeles County, California. The population was 36,664 in the 2000 census; at 2.5 square miles, it is 13th among the 25 geographically smallest cities in the United States with a population of at least 25,000.

The Bell Community Redevelopment Agency was established on March 19, 1973, upon the adoption of Ordinance 741 by the Bell City Council, with a stated purpose of improving, rehabilitating, and developing blighted areas within the City of Bell. The governing body of the agency comprises five members of the City Council. The City Council also is referred to as a redevelopment agency's legislative body.

From an accounting perspective, the agency is a component unit of the city. However, for other purposes, the agency is a completely independent entity. For example, the city has no responsibility to repay debt incurred by the agency.

The Bell Redevelopment Project Area was adopted by the City Council on June 21, 1976, by Ordinance 783. The project has been amended twice and currently consists of approximately 670 acres of primarily commercial and industrial land uses.

The general purpose of redevelopment is to eliminate "blight." Health and Safety Code section 33020 states:

> "Redevelopment" means the planning, development, replanning, redesign, clearance, reconstruction, or rehabilitation, or any combination of these . . . and the provision of those residential, commercial, industrial, public, or other structures or spaces as may be appropriate or necessary in the interest of the general welfare, including recreational and other facilities incidental or appurtenant to them.

A redevelopment agency cannot levy a tax rate. Instead, a redevelopment agency receives its funding from tax increment revenues. Tax increment revenues are revenues generated by the increase in value of the property within the redevelopment project over the value of the property when the project was established (base value). The California Supreme Court described the process as follows:

> Under tax increment financing, "[a]ll taxable property within the area to be redeveloped is subject to ad valorem taxes. The properties lying within a redevelopment area have a certain assessed value as of the date a redevelopment plan is adopted. A local taxing agency, such as a city or county, continues in future years to receive property taxes on the redevelopment area properties, but may only claim the taxes allocable to the base year value. If the taxable properties within the redevelopment area increase in value after the base year, the taxes on the increment of value over and above the base year value are assigned to a special fund for the redevelopment agency.
>
> Once the redevelopment plan is adopted, the redevelopment agency may issue bonds to raise funds for the project. As the renewal and redevelopment is completed, the property values in the redevelopment area are expected to rise. The taxes attributable to the increase in assessed value above the base year value are assigned to the redevelopment agency, which then uses the funds to retire the bonds. The local taxing agencies still receive taxes attributable to the base year assessed value of the properties within the redevelopment area. This way, the redevelopment project in effect pays for itself.

Redevelopment agencies are subject to a number of accounting and reporting requirements as well as administrative requirements. These specific requirements are discussed in the Findings and Recommendations section of this report.

Objectives, Scope, and Methodology

The objective of the review was to ascertain the agency's degree of compliance with Health and Safety Code requirements.

To accomplish our objectives, we performed the following procedures:

- Reviewed the independent auditor's working papers for the audit of the agency's financial statements for FY 2008-09.
- Made inquiries of city employees regarding agency operations and reports.

- Reviewed agency general ledger detail trial balance reports for all fiscal years.
- Selectively analyzed accounts from the above ledgers.

We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our objectives.

Conclusion

We found that the Bell Community Redevelopment Agency failed to comply with Health and Safety Code requirements in several areas.

The Legislature may wish to consider remedies to clarify Health and Safety Code sections and ensure the consequences for noncompliance are enforced.

Views of Responsible Officials

We issued a draft review report on October 13, 2010. We contacted the city's interim administrator and left messages on October 18 and 19, 2010, inquiring about the response to the draft review report. We did not receive a verbal or written response to the draft review report from the City of Bell.

Restricted Use

This report is intended for the information and use of the City of Bell and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

October 20, 2010

Findings and Recommendations

FINDING 1—Administrative costs charged to the Low and Moderate Income Housing Fund (Fund 22) were unallowable.

A redevelopment agency is generally required by Health and Safety Code section 33334.2 to deposit not less than 20% of the tax increment allocated to it into a Low and Moderate Income Housing Fund. The Low and Moderate Income Housing Fund is used by the agency "for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing" available at affordable housing costs, to persons and families of very low, lower, low, or moderate income.

Health and Safety Code section 33334.3(d) requires an annual determination by the governing board "that the planning and administrative expenses are necessary for the production, improvement, or preservation of low- and moderate-income housing" before these costs can be charged. City of Bell staff members were unable to provide a copy of any resolution or other determination and stated they were unaware of any such resolution or determination. Without such a determination, the following charges are ineligible expenditures:

- The Agency charged $244,850 in salaries, 457 contributions, vacation, holiday time, and sick time for administrative purposes to the Low and Moderate Income Housing Fund for the ten-year period under review. Of the amounts charged, $66,100 or 27% of the total, was attributable to the former CAO and another $24,856, or 10.15% of the total, was charged to the Director of Administrative Services (DAS) even though the former CAO only charged for two years and the DAS only charged for one year. City of Bell staff members could not provide any evidence or documentation that the former CAO and the DAS engaged in activities specifically related to the Low and Moderate Income Housing Fund.
- The agency charged various insurance costs to fund expenses such as life, health, and dental insurance. The amount allocable to the planning and administration is not readily quantifiable because there were also eligible labor charges for housing preservation co-mingled with the costs.

Also included in the ineligible charges was $14,661 which was described as payroll for an individual because his labor costs exceeded the 20% administrative costs for a community development block grant. This was charged as part of the labor charges.

Recommendation

The City of Bell should refund the $244,850 ineligible labor charged to the low and moderate income housing fund. In addition, the city should determine the amount of insurance attributable to the ineligible labor charges and refund that amount also. The agency should institute procedures to ensure that proper procedures have been followed prior to charging administration and planning to the Low and Moderate Income Housing Fund. The agency should institute procedures to ensure that only labor that benefits the Low and Moderate Income Housing Fund is charged to the fund.

Additionally, the Legislature may wish to consider legislative remedies to specify the permissible uses of low- and moderate-income housing funds and to clarify the consequences for misuse of those funds.

FINDING 2— Ineligible labor costs charged to Fund 20– Capital Projects

We found some of the labor charges to Capital Project Fund did not provide benefit to the fund and apparently were arbitrarily charged based on a percentage of available work hours. In addition, there is no evidence that the agency attempted to recoup overpayment from its board members. Specifically, our review identified that the former CAO and the DAS charged a portion of their salary to the Agency Capital Projects Fund for five years during the review period. A review of the labor charges disclosed that in nearly every instance, the amount charged was proportionate to the work hours available in the pay period.

- The former CAO and the DAS charged a portion of their salary to the Agency Capital Projects. For example, if there were 80 work hours in the pay period, the CAO would charge 8 hours and the DAS would charge 4 hours. However, if there were 72 work hours in the pay period because of a holiday, the CAO would charge 7.2 hours and the DAS would charge 3.6 hours. The former Assistant CAO charged labor for two years during the review period on the same basis. Labor charges for two other employees also were charged on a similar basis. During the review period, while only charging for five years, the former CAO's charges totaled $171,444, or 60.1% of the total direct charges. The DAS's charges totaled $27,066, or 9.49% of the total direct charges. The former Assistant CAO's charges for two years were $38,117, or 13.36% of the total. The City of Bell staff members could not produce any evidence or documentation to demonstrate a correlation between the hours charged by these city officials and benefit to the agency's fund.

- Members of the Bell City Council also serve as members of the Agency's governing board. It is our understanding that the governing board members may charge $60 per month for service on the governing board. For two years of the review period, the members were receiving $55.38 every two-week pay period. We noted that the majority of the agency meetings lasted three minutes or less and in some months the agency board did not meet at all.

- For three payroll periods during the review period, we found two former board members received the stipend of $27.69 even though they were no longer members of the board. We could not find evidence that the city or the agency attempted to recover the overpayments.

Recommendation

We recommend the city refund $242,268 to the Agency Capital Projects Fund as well as refund the overpayments made to the board members. We recommend that the agency determine if it is proper to charge the fund when meetings are not held or when meetings last for a very short period of time. We recommend the agency establish procedures to ensure that benefits received by the agency are commensurate with costs incurred.

FINDING 3— Other charges to the Low and Moderate Income Housing Fund did not serve to increase the supply of low and moderate housing.

In addition to the labor charges discussed in Finding 1, there were other charges to the Low and Moderate Income Housing Fund that did not serve to increase or preserve the supply of low and moderate income housing in the city. These charges totaled $177,716 and are detailed below. As the agency was not consistent in the accounts where it charged some of the items it was necessary to carefully review account charges.

20% of county administration fee	$ 101,192
Pager and cellular fees	10,798
Automotive	4,240
Uniforms	139
Management fees	2,378
Landscaping	621
Vacation paid in lieu	33,744
Concession to Bell Housing Partners	15,768
Table refinish	350
Audit services	8,486

The County Auditor-Controller is allowed to charge a fee for services rendered in allocating property tax revenues. The agency allocated 20% of the fee charged by the county to the Low and Moderate Income Housing Fund. The fee should have been charged against the Capital Projects Fund as the Low and Moderate Income Housing Fund is restricted for specific purposes.

With the possible exception of Concession to Bell Housing Partners, none of the other charges (automotive, table refinish, vacation paid in lieu) would increase or preserve the low- and moderate-income housing supply.

Recommendation

The audit fee and the 20% administration fee should be reimbursed to the Low and Moderate Income Housing Fund from the Capital Projects Fund. All other items should be refunded by the city to the Low and Moderate Income Housing Fund. The agency should establish procedures to ensure that only costs that increase or preserve the low- and moderate-income housing supply are charged to the fund. The agency should investigate the concession to Bell Housing Partners to determine if the charge increased or preserved the low and moderate income housing supply.

Additionally, the Legislature may wish to consider legislative remedies to specify the permissible uses of low- and moderate-income housing funds and to clarify the consequences for misuse of those funds.

FINDING 4—
The agency did not adopt a budget during the ten-year review period; all budgets were adopted by the City Council while convened as the City Council rather than as the Redevelopment Agency Board.

Health and Safety Code section 33606 requires every agency to adopt an annual budget.

> An agency shall adopt an annual budget containing all of the following specific information, including all activities to be financed by the Low and Moderate Income Housing Fund established pursuant to Section 33334.3:
>
> (a) The proposed expenditures of the agency.
> (b) The proposed indebtedness to be incurred by the agency.
> (c) The anticipated revenues of the agency.
> (d) The work program for the coming year, including goals.
> (e) An examination of the previous year's achievements and a comparison of the achievements with the goals of the previous year's work program.
>
> The annual budget may be amended from time to time as determined by the agency. All expenditures and indebtedness of the agency shall be in conformity with the adopted or amended budget.
>
> When the legislative body is not the redevelopment agency, the legislative body shall approve the annual budget and amendments of the annual budget of the agency.

From an accounting perspective, the agency is a component unit of the city. However, for other purposes, the agency is a completely independent entity. For example, the city has no responsibility to repay debt incurred by the agency.

During the review period, we could not find in the minutes of the agency's meetings, that the agency had ever adopted a budget. We did find that the City Council convened as the City Council had adopted an agency budget for a period of one-to-five years. We also found that the City Council convened as a "committee of the whole" to discuss and hear presentations on the proposed budget. We could not find that the City Council even convened as a "committee of the whole" to pass the budget. In addition, the portion of the budget passed for the agency did not conform to the requirements of the Health and Safety Code section noted above. Most specifically, it lacked items (d) and (e).

Recommendation

The agency should implement procedures to ensure that it passes a redevelopment agency budget in conformity with the Health and Safety Code.

FINDING 5—
There was no evidence to suggest that the agency had presented the annual report required by Health and Safety Code section 33080.1 during the ten-year period under review.

Health and Safety Code section 33080.1 requires every redevelopment agency to submit an annual report to its legislative body within six months of the end of the agency's fiscal year. The annual report is required to contain all of the following:

- An independent audit report for the prior fiscal year.
- A financial statement for the prior fiscal year that contains all of the information required pursuant to section 33080.5.
- A description of the agency's activities in the prior fiscal year affecting housing and displacement that contains the information required by sections 33080.4 and 33080.7.
- A description of the agency's progress, including specific actions and expenditures, in alleviating blight in the previous fiscal year.
- A list of, and status report on, specified loans that were in default or otherwise not in compliance with approved terms.
- A description of the total number and nature of the properties that the agency owns and those properties the agency has acquired in the previous fiscal year.
- A list of the fiscal years that the agency expects various project time limits to expire.

We asked city staff members for copies of the annual reports submitted by the agency to the legislative body for the review period. The staff members stated that they were unaware of any such reports. A review of City Council meeting minutes and agency meeting minutes disclosed that neither minutes acknowledged submission or receipt of the annual report.

Recommendation

The agency should institute procedures to ensure that the annual report is submitted promptly and contains all information required by the Health and Safety Code.

FINDING 6—
The 20% set aside deposit for the Low and Moderate Income Housing Fund was not deposited directly into the fund as required by the Health and Safety Code.

Health and Safety Code section 33334.2(a) states, in part:

> Except as provided in subdivision (k), not less than 20 percent of all taxes that are allocated to the agency pursuant to Section 33670 shall be used by the agency for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost, . . .

Health and Safety Code section 33334.3(a) and (b) state:

> (a) The funds that are required by Section 33334.2 or 33334.6 to be used for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing shall be held in a separate Low and Moderate Income Housing Fund until used.
>
> (b) Any interest earned by the Low and Moderate Income Housing Fund and any repayments or other income to the agency for loans, advances, or grants, of any kind from the Low and Moderate Income

> Housing Fund, shall accrue to and be deposited in, the fund and may only be used in the manner prescribed for the Low and Moderate Income Housing Fund.

The agency's practice is to transfer 20% of the tax increment received by the agency from the receiving fund, Fund 20, to the Low and Moderate Income Housing Fund, Fund 22. This transfer usually occurs within 10 to 14 days after the tax increment is received.

Upon receipt of the tax increment by the agency, 20% of the receipt is assumed to be low- and moderate-income housing monies regardless of where it is deposited. The Health and Safety Code requires that any interest earned by the low and moderate income housing monies be deposited in the fund. While we were able to observe that the Low and Moderate Income Housing Fund was earning interest on balances in the fund, we were not able to observe that when the 20% of the receipts were transferred into the Low and Moderate Income Housing Fund, an appropriate amount of interest also was transferred. This resulted in an overstatement of the interest earned by Fund 20 and an understatement of the interest earned by Fund 22.

Recommendation

We recommend that the agency transfer 20% of the tax increment received into the Low and Moderate Income Housing Fund on the same day the tax increment is received. If the agency cannot make the transfer on the same day, then when the transfer is made, an appropriate amount of interest also should be transferred.

Additionally, the Legislature may wish to consider legislative remedies to specify the permissible uses of low- and moderate-income housing funds and to clarify the consequences for misuse of those funds.

FINDING 7—
The agency statement of indebtedness overstated the amount of outstanding debt.

Health and Safety Code section 33675 requires every redevelopment agency that receives tax increment financing to submit a statement of indebtedness (SOI) to the county auditor by October 1 of each year. Subsection f states, in part:

> For the purposes of this section, the amount an agency will deposit in its Low and Moderate Income Housing Fund established pursuant to Section 33334.3 shall constitute an indebtedness of the agency. For the purposes of this section, no loan, advance, or indebtedness that an agency intends to pay from its Low and Moderate Income Housing Fund established pursuant to Section 33334.3 shall be listed on a statement of indebtedness or reconciliation statement as a loan, advance, or indebtedness of the agency. . . .

The agency allocated a portion of the debt service and principal repayment to the Low and Moderate Income Housing Fund. However, on the SOI, the agency reported the entire amount of the outstanding bonded indebtedness, including the amount to be repaid from the Low and Moderate Income Housing Fund. This has the potential to overstate the amount of tax increment the agency is eligible to receive.

Recommendation

The agency should revise its procedures for preparing the SOI to ensure that only the portion of the indebtedness that is not being paid from the Low and Moderate Income Housing Fund is reported.

**FINDING 8—
Five-year implementation plan was not prepared in a timely manner.**

While researching this item, we noted that there was no authorizing action either by the agency or the Bell City Council to enter into a contract for the plan preparation. The agreement apparently was authorized and signed solely by the former CAO. We understand that the former CAO had broad discretionary powers to enter into contracts below certain fiscal limits without formal Bell City Council approval. The agency is a separate entity from the city. We did not find any authorizing action by the agency that gave the former CAO similar powers for the agency.

We did not review the implementation plan for compliance with the Health and Safety Code requirements. Our review in this area was limited to the process for updating the current plan.

The last five-year implementation plan dated December 5, 2005, covered FY 2004-05 through FY 2008-09. The next plan should have been adopted by the end of 2009. However, it is nearly a year late.

Documentation provided by the DAS indicates that the next five-year implementation plan is currently in draft form and still needs to be reviewed and approved by agency personnel.

Health and Safety Code section 33490 states, in part

> a) (1) (A) On or before December 31, 1994, and each five years thereafter, each agency that has adopted a redevelopment plan prior to December 31, 1993, shall adopt, after a public hearing, an implementation plan that shall contain the specific goals and objectives of the agency for the project area, the specific programs, including potential projects, and estimated expenditures proposed to be made during the next five years, and an explanation of how the goals and objectives, programs, and expenditures will eliminate blight within the project area and implement the requirements of Section 33333.10, if applicable, and Sections 33334.2, 33334.4, 33334.6, and 33413. After adoption of the first implementation plan, the parts of the implementation plan that address Section 33333.10, if applicable, and Sections 33334.2, 33334.4, 33334.6, and 33413 shall be adopted every five years either in conjunction with the housing element cycle or the implementation plan cycle.

Recommendation

We recommend that the agency move expeditiously to review the plan and take all necessary actions for its approval. We recommend that the agency institute procedures to ensure that contracts entered into by or for the agency have agency review and approval.

FINDING 9—Meeting minutes and agency expenses were not approved by the agency.

It was noted that, especially in calendar years starting with 2008, the City Council minutes would state that the council members were there in their capacities such as council person, agency board member, etc. The City Council would then convene as the City Council. The minutes did not indicate that the City Council and agency were holding a joint meeting for the conduct of business.

After convening as the City Council, the council would then approve agency warrants and the minutes of the prior agency meeting even if the agency board had never convened. On some occasions, after approving the agency warrants and meeting minutes, the City Council would then adjourn, re-convene as the agency, conduct other agency business, adjourn as the agency, and then re-convene as the council.

Recently, the city has started posting a separate agency meeting agenda.

Recommendation

We have previously noted that the agency and the city are two separate entities. As such, we recommend the City Council convene as the agency board prior to conducting agency business.

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